

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:00-CR-22-BO-1

UNITED STATES OF AMERICA)
)
v.)
)
JAMES WALTON)

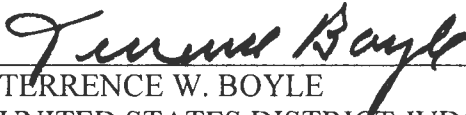
ORDER

This cause comes before the Court on defendant's motion for modification of the record pursuant to Fed. R. App. P. 10(e)(2)(B). The Court previously denied defendant's motion to reduce sentence pursuant to Section 404 of the First Step Act of 2018. Defendant has appealed that denial and asks the Court to supplement the record before the Fourth Circuit Court of Appeals with his Sentence Monitoring Computation Data sheet, as calculated by the Bureau of Prisons (BOP).

Pursuant to the Federal Rules of Appellate Procedure, the Court may provide a supplemental record correcting a misstatement or omission "if anything material to either party is omitted from or misstated in the record by error or accident." Fed. R. App. P. 10(e)(2)(B). The Court denies defendant's motion because the Sentencing Monitoring Computation Data sheet is not material. It contains no more than the opinions of prison officials or a probation officer as to the duration of defendant's sentence, but the judge's ruling as to the duration of the sentence controls. *United States v. Rush*, No. 91-8031, 1992 U.S. App. LEXIS 14651, *12, n.3 (10th Cir. June 18, 1992) (citation omitted).

Accordingly, for the foregoing reasons, defendant's motion for modification of the record [DE 115] is DENIED.

SO ORDERED, this 16 day of January, 2021.



TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE